

ORIGINAL SENATE  
FILE NO. SF0120

ENROLLED ACT NO. 41, SENATE

SIXTY-FIFTH LEGISLATURE OF THE STATE OF WYOMING  
2020 BUDGET SESSION

AN ACT relating to the administration of government; creating the office of guardian ad litem; modifying administration of guardian ad litem program; repealing provisions related to office of the public defender oversight of the program; making conforming amendments; providing for continuation of contracts; providing for rulemaking; reappropriating funds; and providing for an effective date.

*Be It Enacted by the Legislature of the State of Wyoming:*

**Section 1.** W.S. 9-2-3101 is created to read:

ARTICLE 31  
OFFICE OF GUARDIAN AD LITEM

**9-2-3101. Office created; appointment of director.**

(a) The office of guardian ad litem is created as a separate operating agency as provided in W.S. 9-2-1704(d).

(b) The governor, with the advice and consent of the senate, shall appoint a director of the office who shall serve as the administrative head of the office and as chief guardian ad litem. Unless sooner removed, the director's term of appointment expires at the end of the term of office of the governor during which he was appointed. The director serves at the pleasure of the governor and may be removed by him as provided by W.S. 9-1-202. The director shall:

(i) Be a member in good standing of the Wyoming state bar;

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(ii) Have experience in guardian ad litem representation, child welfare and juvenile justice;

(iii) Be compensated as determined by the Wyoming personnel division;

(iv) Devote full time to the performance of his duties;

(v) Administer the guardian ad litem program as provided in W.S. 14-12-101 through 14-12-104.

(c) The director shall not engage in private practice except to complete business pending at the time of his appointment.

**Section 2.** W.S. 1-39-103(a)(iv)(F), 1-41-102(a)(v)(D), 9-2-1704(d) by creating a new paragraph (xvii), 14-12-101(a)(intro) and (c) and 14-12-103(a), (c) and (d) are amended to read:

**1-39-103. Definitions.**

(a) As used in this act:

(iv) "Public employee":

(F) Includes contract attorneys in the course of providing contract services for the ~~state public defenders~~ office of guardian ad litem as provided in W.S. ~~7-6-103(k) or~~ 14-12-104;

**1-41-102. Definitions.**

(a) As used in this act:

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(v) "Public employee" means any officer, employee or servant of the state, provided the term:

(D) Includes contract attorneys in the course of providing contract services for the ~~state public defenders~~ office of guardian ad litem as provided in W.S. ~~7-6-103(k) or~~ 14-12-104;

**9-2-1704. Reorganization plan; structure; time frame.**

(d) The entities of state government specified in this subsection are designated as separate operating agencies, which are separate and distinct from the departments and offices specified in subsection (a) of this section because of their quasi-judicial responsibility or because of their unique, specialized function which precludes their inclusion in another department. This act does not otherwise apply to separate operating agencies. Separate operating agencies are as follows:

(xvii) Office of guardian ad litem.

**14-12-101. Office of guardian ad litem; guardian ad litem program; rulemaking; reporting.**

(a) The office of ~~the state public defender~~ guardian ad litem shall administer a guardian ad litem program. The program shall employ or contract with, supervise and manage attorneys providing legal representation as guardians ad litem in the following cases and actions:

(c) The office shall adopt policies and rules and regulations governing standards for the legal representation by attorneys acting as guardians ad litem in

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cases under the program and for the training of those attorneys. ~~The policies and rules shall ensure that the program will be separate and distinct from the office's performance of duties involving criminal defense and representation of a juvenile other than as a guardian ad litem in delinquency proceedings. To the maximum extent possible, the policies and rules shall ensure all fiscal and information technology duties for the program are kept separate from the fiscal and information technology duties for the office of the public defender.~~ Any attorney providing services to the program as a guardian ad litem shall meet the standards established by the office for the program.

**14-12-103. County participation; reimbursement; offices and equipment.**

(a) The office of ~~the state public defender~~ guardian ad litem shall enter into agreements with each county participating in the program. Agreements shall require counties to comply with all program rules and policies. The agreement shall establish the compensation rate within the county for attorneys providing legal representation as guardians ad litem in program cases and the reimbursement requirements. A county may agree with an attorney providing services under the program to pay a rate in excess of the rate set for payment by the program. If a county agrees to do so, it shall enter into a separate contract with the attorney providing services and shall be responsible and obligated to reimburse the program for one hundred percent (100%) of the excess amount. The county shall enter into a separate agreement with the office setting out the agreement, the excess rate and the responsibilities and obligations of all parties.

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(c) There is created a guardian ad litem account. All reimbursements received under the program shall be deposited to the account. Funds within the account are continuously appropriated to the ~~public defender's~~ office of guardian ad litem for expenditure for the sole purpose of the guardian ad litem program.

(d) Agreements entered into under this section shall include provision for each county, in which guardians ad litem employed by or under contract with the program are located, to provide ~~separate from any public defender field office,~~ adequate space and utility services, other than telephone service, for the use of the program's guardians ad litem. If suitable office space for all guardians ad litem cannot be provided, the county shall provide, based upon a proportional share, a monthly stipend to all program guardians ad litem housed in private facilities. The proportional share shall be determined by the program, based upon the counties served by each guardian ad litem not provided suitable office space. The stipend shall be paid directly by the county to the program guardian ad litem.

**Section 3.** W.S. 7-6-103(c)(viii), 7-6-106(d)(iii), 7-6-112(a)(v), 7-6-113(d) and 14-12-101(b) are repealed.

**Section 4.**

(a) On the effective date of this act:

(i) All unexpired contracts existing between the office of the state public defender and attorneys under W.S. 14-12-101(a) or 14-12-102(c) shall continue with the office of guardian ad litem substituted for the office of the state public defender;

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(ii) All unexpired agreements existing between the office of the state public defender and counties under W.S. 14-12-103 shall continue with the office of guardian ad litem substituted for the office of the state public defender;

(iii) Any unexpired memorandum of understanding existing between the office of the state public defender and the department of family services shall continue with the office of guardian ad litem substituted for the office of the state public defender.

(b) Nothing in this section shall be construed to prevent any party from renegotiating any contract, agreement or memorandum of understanding.

**Section 5.**

(a) All unexpended, unobligated funds appropriated on or before July 1, 2020 for the guardian ad litem program to the office of the state public defender are hereby reappropriated to the office of guardian ad litem on July 1, 2020.

(b) All positions authorized on or before July 1, 2020 for the guardian ad litem program to the office of the state public defender are hereby transferred to the office of guardian ad litem on July 1, 2020.

**Section 6.** Any rules or regulations pertaining to guardian ad litem program attorneys promulgated by the office of the state public defender under W.S. 14-12-101(c) shall remain in effect until such time that the office of guardian ad litem promulgates rules.

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**Section 7.** This act is effective July 1, 2020.

(END)